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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,678	12/27/2001	William R. Dietel	Piling-1	1831

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C. James Bushman
BROWNING BUSHMAN, P.C.
Suite 1800
5718 Weshteimer
Houston, TX 77057

EXAMINER

CHUKWURAH, NATHANIEL C

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/034,678

Applicant(s)DIETEL, WILLIAM R. ED**Examiner**

Nathaniel C. Chukwurah

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-12 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Stormon.
(US 4,099,579).

With regard to claim 1, Stormon discloses an apparatus for installing a workpiece at a location underneath a surface comprising: an elongated track member (41) having a first end (distal end) positionable proximate the surface and a second end (proximal end) positionable distal to the surface; a carriage (29) mounted on the track (41), a hammer assembly (23), a hammer head (see fig. 7) engageable with the workpiece (18) relative to the carriage and workpiece, a hydraulic actuator (13) to compressively urge the carriage (29) toward the first end of the track (41), an operator (103) to effect reciprocation.

With regard to claim 2, Stormon shows a hammerhead percussively operated (see fig.7).

With regard to claim 3, Stormon shows a hydraulic hammer (23).

With regard to claim 5, Stormon shows a hydraulic actuator (13).

With regard to claim 6, Stormon shows at least one cylinder (13), at least one piston (16) attached to the carriage (29) and track member (41).

With regard to claim 7, Stormon shows a support (6, 61) attached to the track member to hold the track member.

With regard to 8, Stormon shows support (6, 16) operable to vary the attitude of the track member.

With regard to claim 9, Stormon shows a footer (21) at first end.

With regard to claim 10, Stormon shows track member (41) pivotable at (45) relative to the footer (21).

With regard to claim 11, Stormon discloses an apparatus for installing a workpiece at a location underneath a surface comprising: an elongated track member (41) having a first end (distal end) positionable proximate the surface and a second end (proximal end) positionable distal to the surface; a carriage (29) mounted on the track (41), a hammer assembly (23), a hammer head (see fig. 7) engageable with the workpiece (18) relative to the carriage and workpiece, a hydraulic actuator (13) to compressively urge the carriage (29) toward the first end of the track (41), an operator (103) to effect reciprocation.

With regard to claim 12, Stormon discloses an apparatus for installing a workpiece at a location underneath a surface comprising: an elongated track member (41) having a first end (distal end) positionable proximate the surface and a second end (proximal end) positionable distal to the surface; a carriage (29) mounted on the track (41), a hammer assembly (23), a hammer head (see fig. 7) engageable with the workpiece (18) relative to the carriage and workpiece, a hydraulic actuator (13) to compressively urge the carriage (29) toward the first end of the track (41), an operator (103) to effect reciprocation.

The hammer assembly housing is fixed relative to the carriage.

Allowable Subject Matter

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art does not disclose or suggest an apparatus for installing a workpiece comprising in combination a hammer assembly including a housing wherein the housing is keyed to the carriage.

Response to Arguments

Applicant's arguments with respect to claims 1-3 and 5-12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Refer to attachment for notice of references cited and recommended for consideration based on their disclosure of limitations of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathaniel C. Chukwurah whose telephone number is (571) 272-4457. The examiner can normally be reached on M-F 6:00AM-2:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NC

March 8, 2005

A handwritten signature in black ink, appearing to read 'Rinaldi I. Rada', with a long horizontal line extending to the right.

Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700